

JOSEPH H. HUNT
Assistant Attorney General

MARCIA BERMAN
Assistant Branch Director

KAREN S. BLOOM
Senior Counsel
R. CHARLIE MERRITT
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
919 East Main Street, Suite 1900
Richmond, VA 23219
(202) 616-8098
robert.c.merritt@usdoj.gov

Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

NIESHA WRIGHT, <i>Plaintiff,</i>	Case 3:17-cv-01066-JR
v. ELISABETH DEVOS, <i>Defendant.</i>	JOINT STATUS REPORT

On October 2, 2017, this Court granted Plaintiff’s unopposed motion to stay this case. ECF 10, 11. The parties now submit this Joint Status Report, per the Court’s October 2 order. *Id.*

On November 1, 2016, the U.S. Department of Education (“Department”) promulgated a final rule addressing, among other things, the circumstances under which student borrowers can assert a defense to repayment of federal student loan obligations based on misconduct by an educational institution. *See* 81 Fed. Reg. 75,926 (“2016 Rule”). The Rule was scheduled to take

effect on July 1, 2017. On June 16, 2017, the Department issued a notice pursuant to 5 U.S.C. § 705, postponing certain provisions of the 2016 Rule. *See* 82 Fed. Reg. 27,621 (“705 Notice”). Plaintiff brings this action seeking an order “setting aside” the 705 Notice so that Plaintiff can have her borrower defense application “reviewed under” the 2016 Rule. Am. Compl., Prayer for Relief, ECF 2.

As a result of recent developments in other similar lawsuits, the 705 Notice has been vacated and the 2016 Rule has taken effect. *See Bauer v. DeVos*, No. 17-cv-1330, 2018 WL 4353656 (D.D.C. Sept. 12, 2018); *Bauer v. DeVos*, No. 17-cv-1330, 2018 WL 4483783 (D.D.C. Sept. 17, 2018); *CAPPS v. DeVos*, No. 17-cv-999, 2018 WL 5017749, at *1-2 (D.D.C. Oct. 16, 2018). Thus, Defendant believes that this case has become moot. Plaintiff, however, does not believe that this case is moot because she believes she may be entitled to costs pursuant to 28 U.S.C. § 1920. The parties are considering appropriate measures to bring this matter to a prompt resolution. The parties do not object to the stay remaining in place while they continue their discussions. The parties propose filing another status report by January 22, 2019, if the case has not already been dismissed by that time.

Dated: November 20, 2018

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

MARCIA BERMAN
Assistant Branch Director

/s/ R. Charlie Merritt
KAREN S. BLOOM (DC # 499425)
Senior Counsel
R. CHARLIE MERRITT (VA # 89400)
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch

919 East Main Street, Suite 1900
Richmond, VA 23219
(202) 616-8098
robert.c.merritt@usdoj.gov

Counsel for Defendant

/s/ Michael Fuller

Michael Fuller, OSB No. 09357

Olsen Daines PC
US Bancorp Tower
111 SW 5th Ave., Suite 3150
Portland, Oregon 97204
michael@underdoglawyer.com
Direct 503-201-4570

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was delivered to all counsel of record via the Court's ECF notification system.

/s/ R. Charlie Merritt
R. CHARLIE MERRITT